

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

OCT 01 2003

WILLIAM T. CAUDILL,

Plaintiff,

*Robert J. Marquez*  
CLERK

v.

No. CIV-03-0755 BB/DJS

WACKENHUT CORRECTIONS CORP.,  
SANDRA MCFADIN, PROGRAMS WARDEN,  
C.O. M.D. BRODIE, PROPERTY OFFICER,  
LT. BRINENSTOOL, GRIEVANCE OFFICER,  
GREG DANIEL, W.C.C./L.C.C.F. CHAPLAIN,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court *sua sponte* to review Plaintiff's civil rights complaint under 28 U.S.C. § 1915(c)(2) and Fed.R.Civ.P. 12(b)(6). Plaintiff is incarcerated, appearing pro se, and proceeding in forma pauperis. For the reasons below, certain of Plaintiff's claims will be dismissed.

The Court has the discretion to dismiss an in forma pauperis complaint *sua sponte* under §1915(e)(2) "at any time if the action . . . is frivolous or malicious; [or] fails to state a claim upon which relief may be granted." The Court also may dismiss a complaint *sua sponte* under Fed.R.Civ.P. 12(b)(6) for failure to state a claim if "it is 'patently obvious' that the plaintiff could not prevail on the facts alleged, and allowing him an opportunity to amend his complaint would be futile." *Hall v. Bellmon*, 935 F.2d 1106, 1109 (10th Cir. 1991) (quoting *McKinney v. Oklahoma Dep't of Human Services*, 925 F.2d 363, 365 (10th Cir. 1991)). In reviewing Plaintiff's pro se complaint, the Court applies the same legal standards applicable to pleadings drafted by counsel but

liberally construes the allegations. *Northington v. Jackson*, 973 F.2d 1518, 1520-21 (10th Cir. 1992).

The complaint alleges that Plaintiff has been denied certain materials that are necessary to the exercise of his religion. Sponsorship of ceremonies has also been denied, and grievance procedures are not followed. Plaintiff claims these actions violate his rights under the First, Eighth, and Fourteenth Amendments. He seeks damages and injunctive relief.

No relief is available on Plaintiff's claims against Defendants Brinenstool and Daniel. Defendant Brinenstool's alleged failure to treat Plaintiff's grievances according to regulations does not amount to a constitutional violation. *Murray v. Albany County Bd. of County Comm'rs*, No. 99-8025, 2000 WL 472842, at \*\*2 (10th Cir. Apr. 20, 2000). And the alleged denials of religious materials attributed to Defendant Daniel were actually directed (allegedly) by Warden McFadin. Plaintiff's claims against Defendants Brinenstool and Daniel will be dismissed.

IT IS THEREFORE ORDERED that Plaintiff's claims against Defendants Brinenstool and Daniel are DISMISSED with prejudice, Defendants Brinenstool and Daniel are DISMISSED as parties to this action;

IT IS FURTHER ORDERED that the Clerk is directed to issue summonses, with notice and waiver forms, for Defendants Wackenhut Corrections Corp., McFadin, and Brodie.



UNITED STATES DISTRICT JUDGE